

REMARKS

Claims 1–23 are pending in the application.

Claims 1–23 stand rejected.

Claims 1, 3, 5, and 8-23 have been amended.

Claims 2 and 4 have been cancelled.

Formal Matters

Applicant has updated the status of all co-pending applications indicated in the instant application, as required by the Examiner.

Applicant wishes to thank the Examiner for the indication of acceptability of the informal drawings for purposes of examination. As the drawings submitted with this patent application are only intended for such purposes, they were not reviewed by a draftsman. Formal drawings will be submitted upon allowance as required by the Office.

Provisional Rejection of Claims for Double Patenting

Claims 1-2, 4 and 7 were provisionally rejected under the judicially-created doctrine of double patenting. As an initial matter, Applicant has cancelled claims 2 and 4, and so Applicant respectfully submits that this rejection is rendered moot as to those claims. As to claims 1 and 7, Applicant has amended claim 1, and respectfully submit that the amendments made address this rejection. Applicant therefore respectfully submits that this rejection is overcome thereby. Should a terminal disclaimer ultimately become appropriate, Applicant will present such a terminal disclaimer at that time, in the appropriate application.

Rejection of Claims under 35 U.S.C. §112

Claims 1-7 and 23 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

As an initial matter, Applicant has cancelled claims 2 and 4, and so Applicant respectfully submits that this rejection as to those claims is rendered moot. As to claims 1, 3 and 5-7, Applicant has amended claim 1, and respectfully submits that the amendments made address this rejection. As to claim 23, Applicant has amended claim 23, in part to depend from claim 21, and so respectfully submits that the amendments made address this rejection.

Rejection of Claims under 35 U.S.C. §102

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Young, U.S. Patent No. 6,560,606. Applicant respectfully disagrees.

As an initial matter, Applicant does not concede that the reference is prior art, and so respectfully notes that amendments made herein are without prejudice to Applicant's right to establish, for example in this or a continuing application, that the reference is not prior art to an invention now or hereafter claimed.

Applicant respectfully submits that claim 1, as amended, is allowable over Young. Applicant has amended claim 1 to recite that the processing resources comprise at least one of a hardware processor and a software program. Applicant therefore respectfully argues that the indication of the configuration of at least a selected one of the selected processing resources and the configuration of the selected processing resource is not taught by Young. The cited passages

of Young are concerned with the configuration of configuration files, which are used to configure a processing pipeline. (col. 10, lines 2-20) Ultimately, Young is concerned with obtaining usage data specific to one or more value added services (VASs). (col. 10, lines 1-2) This is accomplished using the processing pipeline, which is shown in Fig. 2 of Young as a multi-stage processing pipeline, each pipeline stage including multiple processing modules and an execution management framework. (Fig. 2 and col. 8, lines 1-47) This processing pipeline is implemented in software, and, if for no other reason, could therefore not anticipate claim 1, as amended, because Young does not contemplate the claimed processing resources, their indication for configuration, nor their configuration. Applicant therefore respectfully submits that claim 1, as amended, is not anticipated by Young.

Rejection of Claims under 35 U.S.C. §103

Claims 2-23 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over Young, U.S. Patent No. 6,560,606. Applicant respectfully disagrees.

As an initial matter, Applicant respectfully submits that elements of claims 1, 8, 13, 15 and 16 are not shown, taught or suggested by Young, taken alone or in permissible combination with skill in the art at the time of invention. As noted previously, Young fails to show, teach or even suggest the indication of configuration or configuration of processing resources comprising at least one of a hardware processor and a software program. Young also fails to show, teach or even suggest creating a processing environment that comprises processing devices, as well as software programs coupled to the processing devices, as recited in claim 8. Young further fails to show, teach or even suggest activating or selecting an operating system and a processor, as variously recited in claims 13 and 15. Similarly, Young fails to show, teach or even suggest a

computing environment that comprises at least one type of operating system and at least one type of processor, as recited in claim 16.

Young further fails to show, teach or even suggest the configuration, selection, or specification of software (particularly, operating systems and types thereof) and processors, that make up a computing (or processing) environment, as recited in various manners by claims 1, 8, 13, 15 and 16, because, as noted previously, Young is instead concerned with obtaining usage data specific to one or more VASs through the use of a software processing pipeline. While Young is obviously unrelated to the configuration, selection, or specification of a (hardware) processor (or types thereof), Applicant respectfully submits that Young is also not related to the configuration of operating systems, nor software programs coupled to processing devices.

With regard to hardware such as hardware processors and processors, the Office Action posits that Young teaches a system that allows a user to select hardware, by characterizing stage layout and plug-in layout as operations on hardware. Applicant respectfully submits that this seriously mischaracterizes Young.

Young's apparatus for ordering the processing of data is directed to the management, by an execution manager, of the processing of data by a number of (software) processing modules which constitute a (software) processing pipeline, ensuring that the output of one processing module is properly provided to another of the processing modules, and maintaining VAS usage information in this manner. (Claim 9; Fig. 2 and col. 8, lines 1-47; Fig. 3 and col. 8, line 48, through col. 9., line 4; Fig. 6B and col. 14, line 61, through col. 15, line 20) Young's processing pipeline is implemented in software, using pipeline stages that coordinate a number of processing modules ("plug-ins"), which are modular, computer-executable objects. (col. 8, lines 9-11, 27-30, and 34-47) The process contained in a plug-in includes a sequence of executable computer

instructions organized in one or more callable procedures or routines. (col. 8, lines 38-41) Thus, Young's processing pipeline is a software construct, and so any configuration of Young's processing pipeline is the configuration of those software constructs. Young is simply not concerned with the configuration, selection, or specification of hardware such as a processing device or processor, contrary to the characterization presented in the Office Action.

The claimed invention, as claimed in claims 1, 8, 13, 15 and 16, is directed to the configuration, selection, or specification of processing resources (variously processing devices and/or software (including operating systems) coupled to hardware devices). As just noted, Young is not concerned with whatever processing device or processor aspects exist in relation to Young's software processing pipeline, because those aspects do not play into the operation of Young's software processing pipeline. Thus, the configuration, selection, or specification of software coupled to processing devices (particularly where the processing devices are coupled to a configurable communication link), is not shown, taught or suggested by Young.

The Office Action correctly points out that Young does not "explicitly" teach that the hardware configured, selected, or specified is a processor (or, similarly, Applicant notes, a processing device) or that the software is an operating system,. In fact, Applicant respectfully asserts that nowhere in Young are such concepts shown, taught or suggested. With regard to the former, such is the case for at least the reasons stated above. Such is also the case with regard to the fact that Young does not teach that the software configured, selected, or specified is an operating system. Young fails to show, teach or suggest such because Young is concerned with the use of pipeline stages to track users' usage of VASs. Young does not even contemplate performing any sort of manipulation of an operating system, at least because the users tracked by a system according to Young would not be expected to change operating systems. As would be

expected, then, such an operation is therefore not discussed anywhere in Young, and Young cannot be relied on for such teachings.

Moreover, with regard to claims 3 and 5-23, Applicant respectfully asserts that the rejection thereof fails to provide any information whatsoever that effectively indicates what portion of Young makes obvious the claimed invention, as recited thereby. In fact, Applicant has carefully studied Young and can find no reference to comparable elements existing therein. Applicant respectfully requests that the Examiner more specifically point out the portion or portions of Young upon which the Examiner believes these elements read. *See*, MPEP §§706, 707; 37 C.F.R. 1.106(b). However, Applicant has responded to the cited reference in what Applicant believes to be as meaningful a manner as possible.

For at least the foregoing reasons, Applicant respectfully submits that the invention, as claimed in independent claims 1, 8, 13, 15 and 16, is not anticipated nor made obvious by Young. Applicant further respectfully submits that claims 3, 5-7, 9-12, 14 and 17-23, which depend from independent claims 1, 8, 13, 15 and 16, are also not anticipated or made obvious by Young for at least the foregoing reasons. Applicant therefore respectfully submits that claims 1, 3 and 5-23 are in condition for allowance.

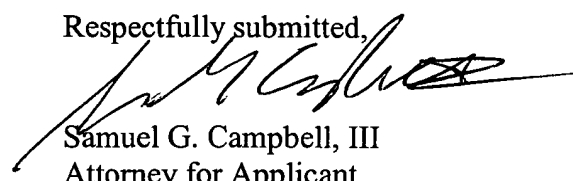
Conclusion

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5080.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop ~~Non-Fee~~ Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 14, 2003.

 10/14/03
Attorney for Applicant(s) Date of Signature

Respectfully submitted,


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